

THE LAND PLANNING AND DEVELOPMENT (GUERNSEY) LAW, 2005

AND SECTION 19 OF THE LAND PLANNING AND DEVELOPMENT (GENERAL PROVISIONS) ORDINANCE, 2007

NOTIFICATION OF REFUSAL OF PLANNING PERMISSION

PROPOSALS: Erect single storey extension to south-west elevation and 2 storey extension with terrace to south-east elevation (Protected Building).

LOCATION: Maison De La Guerre, Route De La Marette, St. Saviour.

APPLICANT: Mr & Mrs M Allez

I refer to the application referred to below received as valid on 16/11/2023 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 02/02/2024

Drawing Nos: PF+A Ltd - 6317-02 B1, B2 & B3

Application Ref: FULL/2023/2297

Property Ref: E005380000

The Development & Planning Authority has decided to refuse your application under the provisions of section 16 of the Land Planning and Development (Guernsey) Law, 2005 for the following reasons:-

1. The proposed extension, by virtue of its two-storey design and height, would have an overbearing impact on and detract from the setting of the existing building, Maison de la Guerre, and prove severely detrimental to the special interest of this Protected Building. The scheme is therefore contrary to Policy GP5 of the Island Development Plan.
2. The proposed two-storey extension, if permitted, would project above the skyline, the result of which would be to have detrimental impact on the setting of the military structures that make up the Protected Monument at Fort Richmond contrary to Policy GP6 of the Island Development Plan.

OTHER REMARKS:-**Right of appeal against planning decisions**

Your attention is drawn to the provisions of Section 68(1) of the Land Planning and Development (Guernsey) Law 2005, which provides a right of appeal, against a decision to refuse an application for planning permission or outline planning permission to the Planning Tribunal on the merits. An appeal to the Planning Tribunal under section 68 of the Law against this decision must be made before the expiry of the period of six months beginning with the date on which the Authority made this decision.

Copy of representations made

In reaching this decision the Development & Planning Authority took into account any written consultations made under Section 11(1) of the Land Planning and Development (General Provisions) Ordinance, 2007 ('the Ordinance'). A copy of any consultation responses made to the Authority under section 11 will be included with this decision in accordance with section 19 of the Ordinance.

A J ROWLES

Director of Planning
Planning Service



PLANNING APPLICATION REPORT

Application No: FULL/2023/2297
Property Ref: E005380000
Valid date: 16/11/2023
Location: Maison De La Guerre Route De La Marette St. Saviour
Guernsey GY7 9XB
Proposal: Erect single storey extension to south-west elevation and 2
storey extension with terrace to south-east elevation (Protected
Building).
Applicant: Mr & Mrs M Allez

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. The proposed extension, by virtue of its two-storey design and height, would have an overbearing impact on and detract from the setting of the existing building, Maison de la Guerre, and prove severely detrimental to the special interest of this Protected Building. The scheme is therefore contrary to Policy GP5 of the Island Development Plan.
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OFFICER'S REPORT

Site Description:

Maison de la Guerre is a WWII bunker that has been converted and extended, by way of a single-storey flat roof extension to the northwest, into a dwelling. Access and parking is via a track from Route De La Marette to the east and parking is to the southeast of the dwelling. The property occupies a site on the Richmond Headland with Fort Richmond, a Protected Monument and Building, to the southwest. Residential development exists to the north and east of Route De La Marette whilst land to the west is open, leading to the beach/slipway.

The whole of Maison de la Guerre including the two ancillary structures to the west is a protected building with the exception of the modern extension to the northwest.

Fort Richmond sits on top of the headland and was positioned thus so as to facilitate observation of the sea and coast for military purposes. It is prominent, projecting above the skyline in views over long distances, and is also visible in closer views.

The site is located Outside of the Centres as designated in the Island Development Plan.

Relevant History:

Pre-application advice was sought in this case. Concerns were raised regarding the impact of the extension on the bunker, with a risk that the bunker may become engulfed by a modern dwelling.

The Authority has recently removed the area of Maison de la Guerre that was within the protected monument (Fort Richmond PM173) from that list and instead added Maison de la Guerre to the protected buildings list (PB1750).

Existing Use(s):

01 dwellinghouse
28 agriculture

Brief Description of Development:

The application relates to the erection of a single-storey flat roof link extension from the existing converted bunker to a two-storey flat roof extension housing a garage and WC on the ground floor and bedroom suite at first floor level, including roof terrace.

The application has been accompanied by a Statement of Significance based on the protected monument (PM) designation around Fort Richmond. It does not take into consideration that Maison de la Guerre is a protected building (a recent change from PM status), nor that Fort Richmond itself is a protected building. This Statement concludes that the distance between Fort Richmond and the proposed extension is such that the setting would be unaffected.

Written confirmation has also been provided by the applicant's Advocate in relation to the matter of land ownership.

It is noted that the directional annotations on the existing and proposed elevation drawings do not accord with one another and both are incorrect.

Relevant Policies of any Plan, Subject Plan or Local Planning Brief:

GP1: Landscape Character and Open Land
GP5: Protected Building
GP6: Protected Monuments (setting)
GP7: Archaeological Remains
GP8: Design
GP9: Sustainable Development

GP13: Householder Development

Annex V: Landscape Character

Representations:

Two letters of representation have been submitted from/on behalf of a single householder objecting to the application, requesting its withdrawal and raising the following points:

- Not all the land to which the application relates falls within the ownership and control of the applicant and the land owner has not given permission for the application to be made on the land – extensive information has been provided relating to this matter
- The drawings are inaccurate, including incorrect compass annotations and trees that do not exist, and fail to show the correct boundary position
- The application form is incorrect given that not all the land falls within the ownership or control of the applicant (sections B and J)
- All 3D views are incorrect as they show the top of the two-storey extension level with the ground and planting to the south – the extension will tower above the levels of the bank
- The Statement of Significance is incorrect and misleading
- The proposed first floor extension will represent a serious blot on the landscape, detrimental to the open land
- The extension will be a visual intrusion to the inhabitants of Fort Richmond
- The extension will have a severe adverse effect on the Protected Monument
- The bunker was not designed as a two-storey lookout and the proposal are out of keeping with the original bunker structure
- There is no evidence that there was ever such a structure on this site before and there is no precedent to allow for this
- Any extension should be single-storey and be positioned on land to the north within the ownership of the applicant

Two letters have also been submitted by the Advocate of the owner of the adjoining land/Fort regarding the matter of land ownership.

Consultations:

None.

Summary of Issues:

The key issues in this case relate to the impact of the proposed development on the special interest of the Protected Building and the setting of the Protected Monument.

Assessment against:

1 - Purposes of the law.

The objectives set out in Section 1(2) of The Land Planning and Development (Guernsey) Law, 2005, 'the Law', have been considered and this report forms part of the assessment, with policy issues set out in Section 2 below.

2 - Relevant policies of any Plan, Subject Plan or Local Planning Brief.

The first matter to address, before considering the proposed development, relates to the matter of land ownership. In this case both the applicant and the adjoining property owner at Fort Richmond assert that the land falls within their ownership and control. It is not for the Development & Planning Authority to seek to resolve land ownership disputes nor seek to make its conclusion on this matter. It is acknowledged however, that the application form includes a signed declaration that all information/details etc. contained within the submission are correct. The Planning Service has sought to ensure the matter is addressed but this has been unsuccessful given the views of both property owners. Ultimately, the matter of land ownership is a private civil matter that cannot influence the outcome of a planning application. Notwithstanding this fact however, in granting permission for a development this does not give the applicant a right to develop on land that is outside their ownership and control. This matter will need to be resolved between the two parties.

The purposes of the Land Planning and Development (Guernsey) Law, 2005, are to protect and enhance, and to facilitate the sustainable development of, the physical environment of Guernsey.

Section 31(1)(b) of the Law explains the general functions of authorities in respect of protected monuments. This states that:

It is the duty of any department of the States when exercising its functions under this Law –

(b) in particular, in exercising its functions with respect to any buildings or other land in the vicinity of a protected monument, to pay special attention to the desirability of preserving the protected monument and its setting.

Section 34 of the Law explains the general functions of authorities in respect of protected buildings. This states that:

It is the duty of any department of the States when exercising its functions under this Law –

(a) to secure so far as possible that the special historic, architectural, traditional or other special characteristics of buildings listed on the protected buildings list ("protected buildings") are preserved, and

(b) in particular, in exercising its functions with respect to a protected building or any other building or land in the vicinity of a protected building, to pay special attention to the desirability of preserving the protected building's special characteristics and setting.

In respect of these statutory duties, the word 'preserve' is taken in its ordinary meaning as set out in Chamber's dictionary, which is 'to keep safe from harm or loss'.

The purposes of the Law are reflected in the Island Development Plan, the principal aim of which is to help maintain and create a socially inclusive, healthy and economically strong Island, while balancing these objectives with the protection and enhancement of Guernsey's built and natural environment and the need to use land wisely. Relevant policies will be addressed below in assessing the key issues.

Section 13 to Part IV of The Land Planning and Development (General Provisions) Ordinance, 2007, sets out a number of general material considerations, the following of which are considered to be relevant in this instance:

- (b) the character and quality of the natural and built environment which is likely to be created by the development,
- (c) the appropriateness of the development in relation to its surroundings in terms of its design, layout, scale, siting and the materials to be used,
- (d) the likely effect of the development on the character and amenity of the locality in question,

Section 14 to Part IV of The Land Planning and Development (General Provisions) Ordinance, 2007, goes on to set out a number of additional material considerations that apply to protected monuments, of which the following is relevant:

- c) the opportunity that the development may afford to restore, enhance or improve the protected monument or its setting.

Section 15 clarifies that the considerations referred to in paragraphs (b) and (c) of section 14 also apply to protected buildings.

The value of elements of the building has been assessed against the magnitude of impact of the works to establish the effect of the development on the overall special interest of the protected building. The matrix on page 16 of BS 7913:2013 is a useful tool for this purpose.

Protected Buildings and Protected Monument

Effect on Maison de la Guerre

Although the physical effect of the two-storey extension on the protected Maison de la Guerre is acceptable the proposed two-storey extension would result in a structure that would exceed the height of the existing bunker. This, in conjunction with the existing single-storey extension (northwest elevation) would have the effect of sandwiching the Protected Building between modern elements. The submission sets out that the two-storey structure would be separated from the bunker by a single-storey link nonetheless, the result of the proposed two-storey extension, particularly given its height, would be that the unassuming architecture and appearance of the wartime bunker would be overwhelmed.

The adverse effect on the setting of Maison de la Guerre, due to the overbearing nature of the proposed extension, is not outweighed by the reasonable aspirations of the owner and the submitted scheme does not address the requirements of Policy GP5.

With regard to the single-storey link extension, the relationship between the proposed extension and the first-floor doorway in the southeast elevation of Maison de la Guerre (accessed via the external staircase) is not clear and it has not been possible to fully assess the link extension with associated green roof and rooflight having regard to the Law and Policy GP5. Although the application could have been deferred in order to seek clarification on this matter this would represent abortive work given that the scheme does not accord with policy in other areas.

Effect on the setting of Fort Richmond

The proposed two-storey element of the proposed extension would project above the headland and although this would not be to the same degree as Fort Richmond the structure would be visible in long views of the protected Fort and would impinge on the intentionally open setting of the unique former military barracks building.

The adverse effect on the setting of Fort Richmond is not outweighed by the reasonable aspirations of the owner and the proposal does not accord with Policy GP5.

The protected monument at Fort Richmond encompasses “*The whole of the exterior and interior of the Fort Richmond site, the moat, gun casement and associated structures...*”. There is a high degree of group value – due to the long historic military use of the site – between the monument, Fort Richmond and Maison de la Guerre.

For reasons of discretion, these structures are generally low-lying against the land surface and built into the hillsides, only Fort Richmond itself projecting notably above the skyline. The proposed extension would also project above the headland into the skyline and as a result would interrupt the overwhelmingly subtle approach of the military structures that make up the protected monument. The effect on the protected monument would be adverse and would not meet Policy GP6.

In conclusion, the proposal fails to conserve the particular special interest of the adjoining and adjacent protected buildings and the protected monument and does not achieve the particularly high standard required within one of the areas of higher protection specified, therefore the scheme fails to comply with Policies GP8 and GP9 b.

Residential amenity

The proposed extensions are set sufficient distance from surrounding residential properties in order to ensure they will not result in overshadowing or overlooking to the occupiers of adjoining properties. The matter of a loss or interruption of view is not a material planning consideration.

The extension will offer more flexible and adaptable accommodation that can respond to the changing needs of occupiers over time and will offer occupiers with good levels of amenity having regard to GP8 and Annex I of the IDP.

Other matters

The approved conversion scheme indicated a rooflight over each of the two bedrooms within the original bunker building. It is noted however, that the layout of the accommodation has altered from that original approval both by planning and Building Control. The bedrooms were both shown as stores on the Building Control drawings although on site one of the two rooms was in use as an occasional bedroom but without the approved rooflight which would impact on outlook and the health and well-being of the existing occupiers/users. This matter may need to be addressed/resolved through a variation or minor amendment to the previously approved scheme.

Conclusion

The proposed two-storey extension would be overbearing and have a detrimental impact on the setting of the bunker, Maison de la Guerre and the application does not contain sufficient information to fully assess the proposed link extension and green roof. The proposal is therefore contrary to the Law and Policy GP5.

Furthermore, the two-storey extension would impact on the open setting of the former military barracks building contrary to the Law and Policy GP5. In addition, the extension would have an unacceptable impact on the setting of the Protected Monument contrary to Policy GP6.

3 - General material considerations set out in the General Provisions Ordinance.

In addition to the consideration of policy issues, Section 13 of the Land Planning and Development (General Provisions) Ordinance, 2007 identifies other material planning considerations which could be relevant. These include; the appropriateness of the development in relation to its surroundings in terms of design, layout, scale, siting and materials; the likely effect on the character and amenity of the locality; any possible fall-back position by way of extant planning permissions or exempt development; the likely effect on the reasonable enjoyment of neighbouring properties. These issues where relevant are considered above.

4 - Additional considerations (for protected trees, monuments, buildings and/or SSS's).

The proposal would have no adverse impact on protected trees. The effect on protected monuments and buildings is assessed in this report.

Date: 02/02/2024

